

SECTION 515 RURAL HOUSING PROPERTY TRANSFER
IMPROVEMENT ACT OF 2007

DECEMBER 4, 2007.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. FRANK of Massachusetts, from the Committee on Financial
Services, submitted the following

R E P O R T

[To accompany H.R. 3873]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3873) to expedite the transfer of ownership of rural multifamily housing projects with loans made or insured under section 515 of the Housing Act of 1949 so that such projects are rehabilitated and preserved for use for affordable housing, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Hearings	3
Committee Consideration	3
Committee Votes	3
Committee Oversight Findings	3
Performance Goals and Objectives	3
New Budget Authority, Entitlement Authority, and Tax Expenditures	3
Committee Cost Estimate	3
Congressional Budget Office Estimate	3
Federal Mandates Statement	5
Advisory Committee Statement	5
Constitutional Authority Statement	5
Applicability to Legislative Branch	5
Earmark Identification	5
Section-by-Section Analysis of the Legislation	5
Changes in Existing Law Made by the Bill, as Reported	6

PURPOSE AND SUMMARY

H.R. 3873, the Section 515 Rural Housing Property Transfer Improvement Act of 2007, reforms the process by which the United States Department of Agriculture (“USDA”) considers applications for transferring Section 515 rural multifamily housing projects from one owner to another. The bill also provides for a review of the bureaucratic procedure within USDA for rural housing projects specifically where such programs involve low income housing tax credits.

BACKGROUND AND NEED FOR LEGISLATION

Section 515 of the Housing Act of 1949 is a direct loan program administered by the USDA that provides for low interest loans to construct and renovate rural multi family housing projects. The program serves approximately 450,000 families in approximately 16,000 buildings nationwide. The families that live in Section 515 housing are low and very low income, most living off less than \$9,000 annually. When a transfer of ownership occurs with a Section 515 property, it is generally good for the residents because the building will receive new sources of capital that result in building renovations. Additionally, the building will most likely be subject to new use restrictions, which will keep it affordable 20, or more, years.

A transfer of ownership must be approved by the USDA. Applications for transfer of ownership in Section 515 properties are processed and approved/denied by the USDA through state Rural Development (RD) offices. The national office within the USDA that administers rural housing is the Rural Housing Service (RHS). The RHS currently does not have control over processing such applications.

Applications to transfer ownership in a Section 515 property are not processed in a timely manner in some state RD offices. Non-action or a lengthy delay on an application by a state RD office often prevents the underwriting of the deal from going forward. Both Section 515 project owners and tenants desire that these deals move in a timely manner so that the owners who desire to leave the Section 515 program can transfer the properties to owners who want to operate the 515s. The change in ownership is also good for the tenants because the deals will likely provide for rehabilitation of the properties and preservation of the properties through long-term use restrictions.

H.R. 3878 transfers unprocessed completed applications to the national RHS office for processing after so many days of non-action by the state RD office. (After 45 days for a single application, after 90 days for a portfolio application of 10 or fewer properties, and after 120 days for a portfolio application of 11 or more properties. The national office then has, respectively, 30 days, 60 days, or 120 days to process the application(s) transferred to its office.) Therefore, if a state RD office does not act in a timely manner, it will lose its control over the process. State RD offices that are processing applications in a timely manner should not be affected by the bill.

The bill also requires the USDA to make administrative and procedural changes to expedite the approval of applications; requires

the USDA to consult with the IRS and HUD to better coordinate LIHTC deals; and requires the USDA to report to Congress on the requirements in the bill by July 1, 2008.

HEARINGS

No hearings were held on this legislation in the 110th Congress.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on October 31, 2007, and ordered H.R. 3873, the Section 515 Rural Housing property Transfer Improvement Act of 2007, favorably reported to the House by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. A motion by Mr. Frank to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 3873 reduces the regulatory burden for participants in USDA housing programs with the goal of providing for an improved approval process in order to preserve and create more affordable housing in rural America.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by

the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

NOVEMBER 15, 2007.

Hon. BARNEY FRANK,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3873, the Section 515 Rural Housing Property Transfer Improvement Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 3873—Section 515 Rural Housing Property Transfer Improvement Act of 2007

Section 515 of the Housing Act of 1949 provides the Rural Housing Service (RHS) within the Department of Agriculture with the authority to make direct loans to developers to build multifamily rental housing in rural areas that is affordable to very low-income families, elderly people, and persons with disabilities. Developers of those projects can apply to the Secretary of Agriculture to transfer ownership or control of such housing to another entity. Those transfers (which are essentially sales), however, are made only if the Secretary determines that the transfer would support housing assistance for low-income people and would be in the best interest of the residents.

H.R. 3873 would require RHS to make certain administrative and procedural changes to improve its process for reviewing requests for transfers of housing supported by section 515 loans. Based on information from RHS, CBO estimates that implementing H.R. 3873 would cost about \$1 million annually over the 2008–2012 period, subject to appropriation of the necessary amounts. Such funding would be used for additional personnel and contract support.

In addition, CBO expects that some transfers of property would happen more expeditiously under this legislation, which could cause taxable events to occur sooner than they otherwise would. Although faster processing of property transfers could increase revenue from individual income taxes, CBO estimates that the total effect on revenues for any fiscal year would be less than \$500,000; the effect over the 2008–2017 period also would be less than \$500,000.

H.R. 3873 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Susanne S. Mehlman. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 3873 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section establishes the short title of the bill, the “Section 515 Rural Housing Property Transfer Improvement Act of 2007.”

Section 2. Congressional findings

This section sets forth Congressional findings regarding rural housing and Section 515, including the population served by Section 515 projects, the desire of owners to transfer Section 515 projects, and the need for the USDA to protect the Section 515 portfolio.

Section 3. Transfers of Section 515 rural multifamily housing projects

This section requires the USDA to make administrative and procedural changes to expedite the approval of applications for transfer of ownership in Section 515 properties, and requires the USDA to consult with the IRS and HUD to simplify the coordination of rules, regulations, forms, and approval requirements for housing projects assisted by low income housing tax credits. The section requires State RD offices to transfer unprocessed completed applications to the national RHS office for processing after so many days of non-action by the state RD office. (After 45 days for a single application, after 90 days for a portfolio application of 10 or fewer

properties, and after 120 days for a portfolio application of 11 or more properties. The national office then has, respectively, 30 days, 60 days, or 120 days to process the application(s) transferred to its office.)

Section 4. Report

This section requires the USDA to report to Congress by July 1, 2008, regarding its actions to better coordinate with the IRS and HUD on the regulatory and bureaucratic requirements for USDA rural housing programs involving low income housing tax credits. The report shall identify and describe improvements in transferring ownership in Section 515 properties, and make recommendations on any necessary legislative changes.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

HOUSING ACT OF 1949

TITLE V—FARM HOUSING

* * * * *

DIRECT AND INSURED LOANS TO PROVIDE HOUSING AND RELATED FACILITIES FOR ELDERLY PERSONS AND FAMILIES IN RURAL AREAS

SEC. 515. (a) * * *

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(h)(1) *CONDITION.*—PROJECT TRANSFERS.—After the date of the enactment of the Act entitled “An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes”, the ownership or control of a project for which a loan is made or insured under this section may be transferred only if the Secretary determines that such transfer would further the provision of housing and related facilities for low-income families or persons and would be in the best interests of residents and the Federal Government.

(2) *TRANSFERS FOR PRESERVATION AND REHABILITATION OF PROJECTS.*—

(A) *IN GENERAL.*—*The Secretary shall make such administrative and procedural changes as may be necessary to expedite the approval of applications to transfer ownership of projects for which a loan is made or insured under this section for the preservation, continued use restriction, and rehabilitation of such projects. Such changes may include changing approval procedures, increasing staff and resources, improving outreach to project sponsors regarding information that is required to be submitted for such approvals, changing approval authority between national offices and the State and local offices, simplifying approval requirements, establishing uniformity of transfer*

requirements among State offices, and any other actions which would expedite approvals.

(B) *CONSULTATION.*—The Secretary of Agriculture shall consult with the Commissioner of the Internal Revenue Service and the Secretary of Housing and Urban Development, and take such actions as are appropriate in conjunction with such consultation, to simplify the coordination of rules, regulations, forms (including applications for transfers of project ownership), and approval requirements for housing projects for which assistance is provided by the Secretary of Agriculture and under any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 or tax-exempt housing bonds. The Secretary of Agriculture shall involve the State Rural Development offices of Department of Agriculture and the Administrator of the Rural Housing Service in the consultations under this subparagraph as the Secretary considers appropriate.

(C) *PRESERVATION AND REHABILITATION.*—The Secretary shall actively facilitate transfers of the ownership of projects that will result in the preservation, continued use restriction, and rehabilitation of such projects.

(D) *FINAL AUTHORITY OVER TRANSFERS.*—The Office of Rental Housing Preservation of the Rural Housing Service, established under section 537 (42 U.S.C. 1490p-1), shall have final regulatory authority over all transfers of properties for which a loan is made or insured under this section, and such Office may, with respect to such transfers, work with and seek recommendations from the State Rural Development offices of the Department of Agriculture.

(E) *DEADLINES FOR PROCESSING OF TRANSFER APPLICATIONS.*—

(i) *PROCEDURE.*—If a complete application, as determined by the Secretary, for a transfer of ownership of a project or projects is not processed, and approved or denied, by the State Rural Development office to which it is submitted before the applicable deadline under clause (ii)—

(I) such State or local office shall not have any further authority to approve or deny the application;

(II) such State or local office shall transfer the application in accordance with subclause (III); and

(III) such application shall be processed, and approved or denied, in accordance with clause (iii) and only by the Office of Rental Housing Preservation, which may make the final determination with the assistance of other Rural Development employees.

(ii) *DEADLINE FOR STATE AND LOCAL OFFICES.*—The applicable deadline under this clause for processing, and approval or denial, of a complete application for transfer of ownership of a project, or projects, shall be the period that begins upon receipt of the complete application by the State Rural Development office to which it is submitted and consists of—

(I) in the case of an application for transfer of ownership of a single project, 45 days;

(II) in the case of an application for transfer of ownership of multiple projects, but not exceeding 10 projects, 90 days; and

(III) in the case of an application for transfer of ownership of 11 or more projects, 120 days.

(iii) DEADLINE FOR OFFICE OF RENTAL HOUSING PRESERVATION.—In the case of any complete application for a transfer of ownership of a project, or projects, that is transferred pursuant to clause (i), shall be processed, and approved or denied, before the expiration of the period that begins upon receipt of the complete application and consists of—

(I) in the case of an application for transfer of ownership of a single project, 30 days;

(II) in the case of an application for transfer of ownership of multiple projects, but not exceeding 10 projects, 60 days; and

(III) in the case of an application for transfer of ownership of 11 or more projects, 120 days.

(iv) APPEALS.—Only decisions regarding complete applications shall be appealable to the National Appeals Division of the Department of Agriculture.

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